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TITLE 326 AIR POLLUTION CONTROL DIVISION

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## FIRST NOTICE OF COMMENT PERIOD

LSA Document #19-576

## BP WHITING REFINERY TEMPORARY ALTERNATIVE OPACITY LIMITATIONS

## PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules at [326 IAC 5](#) concerning a temporary alternative opacity limitation (TAOL) for BP Whiting Refinery located in Lake County, Indiana. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

**CITATIONS AFFECTED:** [326 IAC 5](#).

**AUTHORITY:** [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#).

## SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

## Basic Purpose and Background

BP Products North America Inc. owns and operates a petroleum refinery in Lake County, Indiana (Whiting Refinery). The Whiting Refinery operates two fluidized catalytic cracking units (FCUs) to convert hydrocarbons that boil above 500°F into lower molecular weight products. These products include gasoline and liquefied petroleum gas (LPG). The cracking takes place as the gas oil and catalyst stream mix in the reactor. This process results in the catalyst being coated with coke that is subsequently burned off in a regenerator, which is a source of air emissions. These FCUs are equipped with electrostatic precipitators (ESP) for control of particulate matter emissions. The FCUs are subject to temporary alternative opacity limitations under [326 IAC 5-1-3](#) that generally apply to boilers when building a new fire, or shutting down, as identified in the current Title V operating permit. It is difficult for the FCUs to meet these standards during startup, shutdown, and hot standby events due to the high risk for explosion when emissions from the FCUs are routed through an active ESP. The opacity limits in [326 IAC 5-1-3](#) are specific to startup and shutdown as other opacity requirements in federal New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) are also applicable to these units.

Due to the safety concerns with operating the ESP during these nonroutine operating scenarios, Whiting Refinery has requested that IDEM amend [326 IAC 5](#) for both FCUs to provide for an alternative compliance option to meeting the opacity limitations in [326 IAC 5-1-3](#). Whiting Refinery requested an alternative compliance option for the FCUs that relies on a minimum inlet velocity to the primary internal cyclone of 20 feet per second (fps), similar to requirements allowed by the United States Environmental Protection Agency (U.S. EPA) in the NESHAP at 40 CFR 63, Subpart UUU. Supporting documentation for the NESHAP indicates that commenters during the federal rulemaking expressed concern with fire and explosion unless ESPs are de-energized and bypassed during certain startup scenarios, in which case a FCU would be unable to meet a proposed 30 percent opacity limit. Without information to determine an appropriate opacity limit, U.S. EPA determined that a minimum internal cyclone inlet velocity requirement was more broadly applicable and would provide for particulate matter (PM) reductions during startup and shutdown periods. General provisions regarding opacity are included in the Indiana State Implementation Plan (SIP) as a surrogate for PM, although PM mass emissions and opacity do not always correlate well. Whiting Refinery continues to comply with PM mass emission limits and coke burn limitations as part of the SIP and federal rules.

Indiana's opacity rules at [326 IAC 5-1-3](#) allow a source to request a TAOL for periods of startup or shutdown. IDEM is reviewing available information to establish a TAOL in [326 IAC 5-1](#) that will ensure that the TAOL will not impact maintenance of the National Ambient Air Quality Standards (NAAQS). This rule will also ensure compliance with rule drafting guidelines, and update to streamline, simplify, and clarify the language within [326 IAC 5](#). The TAOL will be submitted to the U.S. EPA as a SIP revision. In order to remain compliant during this rulemaking, Whiting Refinery requested a variance from [326 IAC 5-1-3](#) during startup, shutdown, and hot standby events.

IDEM seeks comment on the affected citations listed, including suggestions for specific language, any other provisions of Title 326 that may be affected by this rulemaking, and alternative ways to achieve the purpose of the rulemaking.

## Alternatives to Be Considered Within the Rulemaking

Alternative 1. Amend the rule to allow the Whiting Refinery to revise the opacity limitations during startup, shutdown, and hot standby events.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? This alternative is not

imposed by federal law and there is no comparable federal law. It is a "state only" requirement. The current opacity requirements at [326 IAC 5-1-3](#) are approved at the federal level into Indiana's SIP.

- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Alternative 2. Do not amend existing rules.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? No.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

#### **Applicable Federal Law**

The opacity limits at [326 IAC 5-1-3](#) are approved at the federal level into Indiana's SIP. Any revision to the SIP needs to be approved by U.S. EPA. IDEM will base revisions to [326 IAC 5](#) on alternative requirements provided in the federal NESHAP at 40 CFR 63, Subpart UUU.

#### **Potential Fiscal Impact**

Potential Fiscal Impact of Analysis 1. This alternative will have a positive fiscal impact on the source. This rulemaking is specific to one source and will not impact any other sources. The revision of the opacity limitations during startup, shutdown, and hot standby events will benefit the source by reducing the explosion risk at the source from operation of the ESP control device during this unique operating scenario. A fire or explosion could result in injury to personnel, damage to equipment, or in shutdown of the facility resulting in a financial impact on the company due to medical costs, lost productivity, clean-up costs, and the need to address environmental and health impacts on the surrounding community.

Potential Fiscal Impact of Analysis 2. This alternative will have a negative impact on the source. If the opacity limitations are not revised during startup, shutdown, and hot standby events, the source would either not be in compliance with the state rule, or there would be a risk of explosion. In the event of an explosion, the associated cost would have a high impact on the source.

#### **Small Business Assistance Information**

IDEM established a compliance and technical assistance program (CTAP) under [IC 13-28-3](#). The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with [IC 13-28-3](#) and [IC 13-28-5](#), there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on CTAP and other resources available can be found at:

[www.in.gov/idem/ctap](http://www.in.gov/idem/ctap)

For purposes of [IC 4-22-2-28.1](#), small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Angela Taylor  
IDEM Small Business Regulatory Coordinator/CTAP Small Business Liaison  
IGCN 1316  
100 North Senate Avenue  
Indianapolis, IN 46204-2251  
(317) 233-0572 or (800) 988-7901  
[ctap@idem.in.gov](mailto:ctap@idem.in.gov)

For purposes of [IC 4-22-2-28.1](#), the Small Business Ombudsman designated by [IC 5-28-17-6](#) is:

Katelyn Colclazier  
Small Business Ombudsman  
Indiana Economic Development Corporation  
One North Capitol, Suite 700  
Indianapolis, IN 46204  
(317) 431-1560  
[kcolclazier@iedc.in.gov](mailto:kcolclazier@iedc.in.gov)

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in [IC 5-28-17-6](#), specifically [IC 5-28-17-6\(9\)](#), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

The Small Business Assistance Program Ombudsman is:

Erin Moorhous  
IDEM Small Business Assistance Program Ombudsman/Business, Agricultural, and Legislative Liaison  
IGCN 1301  
100 North Senate Avenue  
Indianapolis, IN 46204-2251  
(317) 232-8921 or (800) 451-6027  
[emoorhou@idem.in.gov](mailto:emoorhou@idem.in.gov)

### Public Participation and Work Group Information

At this time, no work group is planned for the rulemaking. If you feel that a work group or other informal discussion on the rule is appropriate, please contact Krystal Hackney, Rules Development Branch, Office of Legal Counsel at (317) 232-3158 or (800) 451-6027 (in Indiana).

### REQUEST FOR PUBLIC COMMENTS

At this time, IDEM solicits the following:

- (1) The submission of alternative ways to achieve the purpose of the rule.
- (2) The submission of suggestions for the development of draft rule language.

Comments may be submitted in one of the following ways:

- (1) By mail or common carrier to the following address:

LSA Document #19-576 BP Whiting Refinery TAOL  
Krystal Hackney  
Rules Development Branch  
Office of Legal Counsel  
Indiana Department of Environmental Management  
Indiana Government Center North  
100 North Senate Avenue  
Indianapolis, IN 46204-2251

- (2) By facsimile to (317) 233-5970. Please confirm the timely receipt of faxed comments by calling the Rules Development Branch at (317) 232-8922.

- (3) By electronic mail to [khackney1@idem.in.gov](mailto:khackney1@idem.in.gov). To confirm timely delivery of submitted comments, please request a document receipt when sending the electronic mail. **PLEASE NOTE: Electronic mail comments will NOT be considered part of the official written comment period unless they are sent to the address indicated in this notice.**

- (4) Hand delivered to the receptionist on duty at the thirteenth floor reception desk, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana.

Regardless of the delivery method used, in order to properly identify each comment with the rulemaking action it is intended to address, each comment document must clearly specify the LSA document number of the rulemaking.

### COMMENT PERIOD DEADLINE

All comments must be postmarked, faxed, or time stamped not later than December 20, 2019.

Hand-delivered comments must be delivered to the appropriate office by 4:45 p.m. on the above-listed deadline date.

Additional information regarding this action may be obtained from Krystal Hackney, Rules Development Branch, Office of Legal Counsel, (317) 232-3158 or (800) 451-6027 (in Indiana).

Christine Pedersen, Section Chief  
Rules Development Branch  
Office of Legal Counsel

*Posted: 11/20/2019 by Legislative Services Agency*

An [html](#) version of this document.